

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

BLACKBOARD, INC.

Plaintiff,

v.

DESIRE2LEARN, INC,

Defendant.

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Civil Action No. 9:06CV155

**JUDGE RON CLARK/
JUDGE EARL HINES**

ORDER

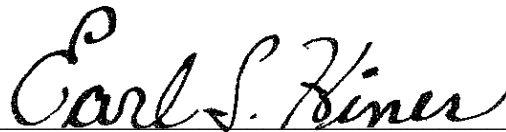
Defendant's Motion to Compel [Doc. # 47], referred to the undersigned for determination, requests the court to compel Plaintiff to file more detailed infringement contentions. Since this motion was filed, additional discovery has become available to Plaintiff, including Defendant's mandatory disclosures and Defendant's source code. These circumstances may permit Plaintiff to file more specific infringement contentions. *See American Video Graphics v. Electronic Arts, Inc.*, 359 F.Supp.2d 558, 560 (E.D. Tex. 2005); *Orion IP, LLC v. Staples, Inc.*, 407 F.Supp.2d 815, 817 (E.D. Tex. 2006).

IT IS THEREFORE **ORDERED** that Plaintiff may serve amended infringement contentions on or before **April 9, 2007**. If Plaintiff chooses not to serve amended infringement contentions, Plaintiff's initial infringement contentions – other than contentions relating to source code – will be limited to the specific examples of accused products named in the initial infringement contentions. As for infringement contentions relating to source code,

IT IS FURTHER **ORDERED** that on or before **April 24, 2007**, Plaintiff shall identify, on an element-by-element basis for each asserted claim, what source code of each Accused Instrumentality allegedly satisfies the software limitations of the asserted claim elements. Defendant may serve amended invalidity contentions that amend only those claim elements identified as software limitations by Plaintiff within 15 days of receipt of this disclosure.

This order and any new deadlines imposed herein shall not serve as a basis for an extension of time for any other deadline, including the claim construction hearing.

SIGNED this 27 day of March, 2007.

A handwritten signature in black ink, reading "Earl S. Hines", written over a horizontal line.

Earl S. Hines
United States Magistrate Judge